33064

IN THE SUPREME COURT OF APPEALS, STATE OF WEST VIRGINIA

IN THE MATTER OF:

KENNETH SAUNDERS CARTER,

Appellant,

v. KANAWHA COUNTY CIVIL ACTION NO: 05-MISC-327
SUPREME COURT NO: 33064

CHRISTINA M. KARAWAN,
on behalf of BLAKE ANDREW CARTER,
A minor,

Appellee.

FROM THE CIRCUIT COURT OF KANAWHA COUNTY

CHRISTINA M. KARAWAN'S RESPONSE TO KENNETH SAUNDERS CARTER'S PETITION FOR APPEAL

To the Honorable Justices of the
Supreme Court of Appeals
of West Virginia

June 15, 2006

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NO. 33064

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CHARLESTON

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PROCEDURAL HISTORY

The Appellant and Appellee were married on October 14, 1989 and divorced by Final Order of the Kanawha County Circuit Court on September 9, 1991. The parties are the parents of one (1) minor child, namely, Blake Andrew Carter, born on October 29, 1990. Per the Final Divorce Order, Appellee was awarded permanent care, custody and control of the minor child. Appellant Kenneth Carter was awarded "reasonable supervised visitation with the child" during the first and third Sunday of each month for a six-hour period of time. Appellant was also ordered to pay child support in the amount of $134.15 commencing October 5, 1991 and continuing on the fifth (5th) of each month thereafter.

On August 4, 2005, Appellee Christina M. Karawan filed a Petition for Change of Name with the Circuit Court of Kanawha County at the request of her fourteen (14) year old son. On August 23, 2005 a lengthy evidentiary hearing was held before the Honorable Paul Zakaib, Jr. regarding this matter. The Circuit Court found that such request of a name change was reasonable and that changing the minor child's name to Karawan was in the child's best interests and made substantial findings to support such ruling. An Order was entered reflecting that ruling on August 26, 2006.

On February 3, 2006, Kenneth Carter filed a Petition for Appeal and the Court accepted such petition by Order entered on March 29, 2006. Prior to the date the Appellee's response was due, she filed the Court for an extension of time and the same was granted.

ASSIGNMENTS OF ERROR

I. **APPELLANT CLAIMS THAT THE TRIAL COURT ABUSED ITS DISCRETION IN ORDERING A CHANGE OF NAME FOR BLAKE CARTER. THE TRIAL COURT RULED THAT SUCH CHANGE WOULD BE IN THE CHILD'S BEST INTERESTS.**

POINTS & AUTHORITIES

In re: Harris, 160 W.Va. 422, 236 S.E. 2d 426 (1977)
Lufft v. Lufft, 188 W.Va. 339, 424 S.E. 2d 266 (1992)
West Virginia Code §25-25-101, *et seq.*
Marshall v. Marshall, 230 Miss. 719, 93 So. 2d 822; (1952)
In Re: Newcomb, 15 Ohio App. 3d 107; 472 N.E. 2d 1142 (1984)
In Re: Adoption of Michael Charles Schoffstall, 179 W.Va. 350 (1988).
Adoption of William Albert B., 216 W.Va. 425, 607 S.E. 2d 531, (2004)
In Re: Barker, 155 Ohio App. 3rd 673; 2003 Ohio 7016; 802 N.E. 2d 1138 (2003)
In the matter of Anna Maliszewski, 162 Misc. 2d 79; 615 N.Y. S. 2d 977 (1994)
Likins v. Logsdon, 793 S.W. 2d 118 (1990)
In Re: Willoughby, 2004 Ohio 2079, 2004 Ohio App. Lexis 1801 (2004)
Bennett v. Northcut, 544 S.W. 2d 703 (1976)
In Re: The Adoption of Jon L., 625 S.E. 2d 251; 2005 W.Va. Lexis 174 (2005)
Charles F. May v. Linda Grandy, et al, Record No. 991770 (2000)
Flowers v. Cain, 218 Va. 234, 237 S.E. 2d 111, 113 (1977)
West Virginia Code §48-25-101 (2001)

ARGUMENT

In 1977 the West Virginia Supreme Court of Appeals dealt with the case of a woman who wanted to change the name of her child to her maiden name. *In Re: Harris,* 160 W.Va. 422, 236 S.E. 2d 426 (1977). At that time women were not allowed to assume their maiden names after divorce if they had living children with a former husband. In a case of first impression, the Court addressed the issue of a minor's name change in that situation. A divorced mother appealed on behalf of herself and her minor son, from the Morgan County Circuit Court's denial of her petition for the child's name

change. In this case, the record does not reflect exactly what the relationship was between the child and his biological father, nor does it detail any specific reasons for the name change request.

In *Harris,* this Court held that since children bear the surname of their father by custom and usage in this society, a father who has exercised his parental rights **and** discharged his parental duties cannot have the name of his minor child changed from the father's surname unless upon proper notice and by clear, cogent and convincing evidence, it is shown that such changes will significantly advance the best interests of the child. *Id.* at syl. pt. 3. (emphasis added). In the record below, Kenneth Carter left his wife when she was three months pregnant, did not attend the child's birth and did not see the child from the time he was fourteen (14) months old until the hearing held in August 2005. Child support was ordered at the divorce hearing, and Mr. Carter paid that sum. Contra to the Final Divorce Decree, he failed to notify Ms. Karawan when his employment status changed, nor did he provide health insurance or pay his share of uninsured medical expenses for the child's benefit. (Tran. at pp. 5, 7-9, 11-13). In fact, the minor child's stepfather has provided health insurance for the child since their marriage years ago. Blake Carter has known no other father figure than his stepfather. (Tran. at p. 30-31).

The lower court rightfully analyzed all pertinent facts in the case, finding that Mr. Carter had failed to exercise his parental rights for **thirteen and one-half (13½) years,** and consequently had no bond with his biological son. The court-ordered child support obligation was paid by him, but several of his court-ordered obligations were not met, and no explanation was given for that failure. That information, coupled with Blake Carter's sincere wish to have his name changed and the obvious love and affection for the

man who had raised him, support the Court's decision. Such a balancing by the trial court of the respective interests of the biological father and child is well within the purview afforded under the statute and *Harris* case and should be sustained. The *Harris* Court stated:

> *"The weight of authority appears to be that absent extreme circumstances a father who* ***exercises his parental rights*** *has a protectable interest in his children bearing his surname and this interest is one quid quo pro of his reciprocal obligation of support and maintenance" Id.* at p. 427. Emphasis added.

Almost thirty years later, this Court should respect a mature teenager's desire to carry the name of the man who helped raise him, his stepfather. His biological father has failed to exercise his parental rights since the child's infancy, and the child should not be forced to carry his last name. In *Harris*, the Court noted:

> *"A father's interest in having his children bear his name is a valuable and protectable interest, although it is not a propriety right nor such an interest as cannot be taken away from the parent, if the best interest of the child will be served." Id.* at p. 426.

Subsequent to the *Harris* decision, the West Virginia Supreme Court of Appeals dealt with another minor's name change, that of a child who had never held her father's last name. *Erin Lufft, now Erin Campbell, Appellant v. James Lufft, Appellee,* 188 W.Va. 339; 424 S.E. 2d 266 (1992). At the parties' final divorce hearing, Mr. Lufft requested that the child's surname be changed to "Lufft" and the family law master granted that request. The mother appealed the decision. The Court found that Samantha Campbell's natural father had married her mother within two (2) years of her birth, thus refuting the father's argument that granting the requested name change would cause the child to be deemed illegitimate. *Id.* at 340-341. The Court held that the lower court had not

examined the issue of the child's best interest before recommending the name change and rejected the father's claim. *Id.* at 343.

West Virginia Code §25-25-101, *et seq.* controls the name change of a minor child in West Virginia. In 1992, the Supreme Court of Appeals interpreted this statute stating,

> *"...when a name change involves a minor child, proof that the change is in the best interests of the child is necessary over and above what is required by this article." Id.*

Mr. Carter's reliance on the *Lufft* case is misplaced. In *Lufft,* the appellant asserted that the Family Law Master was incorrect in granting the appellee's request that the child's name be changed to Lufft without following the requirements of the statutes for name changes and without setting forth factors showing the name change is in the best interest of the child. In that decision the Court outlined the factors that the court should consider:

> *"Upon filing of such petition, and upon proof of the publication of such notice in the manner set forth in the petition, and being satisfied that no injury will be done to any person by reason of such change, that reasonable and proper cause exists for changing the name of petitioner, and that such change is not desired because of any fraudulent of evil intent on the part of the petitioner, the court or judge thereof in vacation may order a change of name as applied for." Id.* at 342.

In the current case, the trial court made the proper inquiries of both parties and the child, considered all of the evidence and made a sound and legal decision based upon West Virginia law and the child's best interests.

Appellant's mere listing of innumerable cases provides no assistance to the Court. Most, if not all cases cited denote "a child's best interest standard" as the consideration a Court should following in allowing a minor's name change. For example, in a case relied upon by the Appellant, *Marshall v. Marshall,* 230 Miss. 719, 93 So. 2d 822;

(1952), that Court addressed this same issue. Denying a name change for the eleven (11) year old minor who had a significant and close relationship with his biological father, unlike the case at bar, the Court outlined the standard used for its decision:

> *"Where a parent has abandoned his children or fails to visit them for protracted periods of time or contribute to their support, where continued use of a name may bring shame and disgrace, where the physical welfare of the child may be adversely affected by a denial of the application or substantial property rights are involved, the Court would have no difficulty in permitting the change of name in the best interest of the infant." Id.* at p. 725.

In the neighboring state of Ohio, the Court first addressed this same issue in 1984, *In re: Change of Name of Richard Brian Newcomb and Stephen Thomas Newcomb,* 15 Ohio App. 3d 107; 472 N.E. 2d 1142 (1984). In Syllabus Point Two the Court decided:

> *"When the father is supporting the child, manifests an abiding interest in the child, is not infamous, has exercised visitation privileges and has promptly objected to the change of name, the applicant must present a special and overwhelming reason indicating that the change of name would be in the best interest of the child in order to satisfy the statutory requirement that "there exists reasonable and proper cause for changing the name."*

This case used by Appellant to support his position, actually affirms Appellee's claim. In the *Newcomb* case, the natural father exercised his visitation rights with the children on a regular basis and the children maintained a relationship with their paternal grandparents of their own volition. *Id.* at p. 1143. Thus, the factual underpinnings of this case differ dramatically from the case before the Court. The *Newcomb* Court denied the thirteen year old's petition to change his name because the child had become upset with his natural father over a perceived slight after thirteen years, and his mother's suggestion that he and his brother change their names. *Id.* Such trivial concerns do not mirror the

situation before the Court, and under the *Newcomb* Court standard this Court should affirm the lower Court decision.

In 1988, the West Virginia Supreme Court of Appeals addressed the abandonment of a natural father in an adoption proceeding *In the Matter of the Adoption of Michael Charles Schoffstall,* 179 W.Va. 350; 368 S.E. 2d 720 (1988). The mother and stepfather of the child sought an adoption, alleging that the child had been abandoned by his natural father. *Id.* at p. 351. The Court rightfully denied such adoption because the father's assertion of his parental rights had been forestalled by the actions of the child's mother; moving 300 miles away; having an unlisted telephone number; refusing visits, gifts, cards and money sent to the child by his father. *Id.* Again this case relied on by the Appellant in his brief actually supports the Appellee's position, as there was no such evidence introduced by the Appellant.

In a similar vein, another adoption case cited by the Appellant can be easily distinguished by the case before the Court. *In Re: The Adoption of William Albert B, Kathy Ann B., and Sierra Nicole B.,* 216 W.Va. 425; 607 S.E. 2d 531 (2004). This case, involving the adoption of three children by their maternal grandparents, bears no resemblance to the case at bar. The Court rightfully denied the adoption in this case, finding that the maternal grandmother forestalled any attempts by the natural father to see his children, based upon the grandmother's own testimony at the lower court proceeding. *Id.* at p 431.

Mr. Carter's reference to *In Re: Adoption of William Albert B.,* is quite interesting, given the facts of his situation. The Appellant's quotations from that decision prove illuminating. For example, "…a father who sends no mail and makes no telephone

calls to his children has not abandoned them." *Id.* at 534. The fact that a father may have "many weaknesses" and is by no means a "perfect" father does not establish abandonment. 607 S.E. 2d at 536.

By no means is Mr. Carter a "perfect" father, nor even an adequate one. His claim that his lack of past contact with his son was based upon his difficulty in maintaining a civil, cooperative relationship with his ex-wife is not supported by the evidence. Without any evidentiary support, Mr. Carter even extends his frivolous argument to an inference that Ms. Karawan "might prevent Blake from receiving telephone calls or letters." (Appellant's Brief at 15). Such fictional analysis cannot be affirmed by this Court.

In 2004, the Ohio Court of Appeals denied the name change of three children who sought the change out of convenience and to avoid embarrassment. *In the matter of Change of Name of Jessica Lea Barker, Zachary Scott Barker, Nicholas Mitchell Barker,* 155 Ohio App. 3rd 673; 2003 Ohio 7016; 802 N.E. 2d 1138 (2003). In relying on this case, the Appellant mistakenly believes that this Court will be swayed by the mere volume of cases cited, no matter what their actual findings reflect. In this case, the Court denied the name change because the children's father was actively involved in the children's lives, with regular contact and support of them, and the children's request was based simply on convenience and comfort. *Id.*

The Supreme Court of New York, Rockland County, denied a similar request for a name change, where the mother sought to change the surname of her eight-year old daughter to that of her current husband. *In the matter of Anna Maliszewski, on behalf of Sandra Bowe, Petitioner,* 162 Misc. 2d 79; 615 N.Y. S. 2d 977 (1994). In this case it was

uncontraverted that while the natural father was arrears in child support, he faithfully paid for the child's parochial school education and never missed a birthday or holiday by seeing the child or sending her presents. *Id.* at 81. The child's mother also acknowledged that the child's use of her stepfather's surname would create confusion for her. *Id.* Again, Appellant's use of this case is baffling, given the facts before the Court.

In yet another case cited by the Appellant, *Morris Damon Likins, Appellant v. Bobbi Likins Logsdon, Appellee,* 793 S.W. 2d 118 (1990), the Court overturned a lower court decision, changing the surname of a divorced mother's three children to that of her new husband. The Court's analysis reflected that the natural father had done nothing to deserve such treatment.

> *"...the record of any conduct on the part of the father that would justify depriving him of having his children bear his surname is either insignificant or nonexistent, depending on one's point of view." Id.* at p. 120.

Unlike the current situation before the Court, the father in *Likins* had been actively involved with his children, but they were angry with him because of an altercation between the mother and paternal grandmother. *Id.*

In 2004, the Court of Appeals of Ohio heard a case with a similar factual scenario. *In Re: Raeann Michelle Willoughby, Stephanie Frances Willoughby and Lilian Josephine Willoughby,* 2004 Ohio 2079, 2004 Ohio App. Lexis 1801 (2004). The lower court denied the girls' request to have their name changed. The Appellate Court affirmed that decision, and outlined the standard involved in the Court's analysis of such situations:

> *"...the effect of the change on the preservation and development of the child's relationship with each parent; the identification of the child as part of a family unit; the length of time that the child has used a surname; the preference of the child if the child is of sufficient maturity to express a meaningful preference; whether the child's surname is different from the*

surname of the child's residential parent; the embarrassment, discomfort, or inconvenience that may result when a child bears a surname difference from the residential parent's; parental failure to maintain contact with and support of the child; and any other factor relevant to the child's best interest." Id.

The Court further noted that the girls' mother had poisoned the relationship between the children and their father. *Id.* at 2082. In the case before the Court no credible evidence was adduced that the mother had interfered with the relationship of her son and his natural father. A name change reflecting the child's love and respect for his stepfather, would certainly not hamper any "relationship" between father and son in this case for none exists and as Blake Carter's letter reflects, he is certainly mature enough to make this decision.

A Texas case cited by the Appellant, *Bettysu Bennett, Appellant v. Bart E. Northcutt, Appellee,* 544 S.W. 2d 703 (1976), provides no further illumination to the Court. The Court upheld the denial of an application of a mother wishing to change the name of her nine-year old daughter to that of her present husband. *Id.* at 705. That decision was based upon the fact that no evidence supporting the name change was presented other than the child's preference. *Id.* at 707. The question for the Court becomes whether the trial court acted arbitrarily or unreasonably in failing to give controlling weight to the child's preference. *Id.* The Court found that the child's preference is only one of the factors for the Court to consider and that fact alone does not warrant the granting of the name change. *Id.*

In this case, the trial court had total discretion over the decision of whether to grant the child's wish for a name change and such discretion was not abused. The record reflects that the Court held a lengthy evidentiary hearing on the merits of the case, and

Blake Andrew Carter was interviewed. Blake cogently presented his desire and reasons for the name change in his correspondence attached to his mother's Petition for Name Change of a Minor filed on August 4, 2005 as well. The trial court properly inquired whether the name change was sought for any improper purpose, and whether the child's biological father's rights would be jeopardized if the name change was ordered. (Tran. at pp. 7-8).

No evidence was adduced by Mr. Carter to counter his son's claim that the name change was his own idea; that he wanted to honor and carry the name of the man who had raised him, his stepfather Henry John Karawan. Interestingly enough, the parties' versions of post-divorce events differ very little. The child's mother stated that there had been no contact between her ex-husband and her son for approximately thirteen and one-half (13½) years, with the exception of one birthday card sent by Mr. Carter when the child was three (3) years old. Although Mr. Carter mouthed the appropriate platitudes about wanting to bond with his child, he presented absolutely no concrete evidence to support his claim that Christina M. Karawan had forestalled efforts to see his child, other than his testimony. The dearth of concrete evidence offered by him speaks volumes. Where were the receipts for gifts purchased, telephone records, postmarked cards/letters returned to sender; or even legal documents filed. *Pro se* litigants comprise more than half of the court's docket and with very little effort, Mr. Carter could have enforced his parental rights, but he chose not to do so.

His argument that the proposed name change would interfere with or deter Blake Carter from forming a bond with him later in his life was equally absurd. The trial court judge specifically raised that issue in an *in camera* interview with Blake Carter, and the

child, a mature and bright fourteen (14) year old at that time, clearly understood that the name change would not preclude him from doing so. From review of the record, Kenneth Carter did not even attempt to speak to the child at the hearing, the first time the child had seen his father since infancy. (Tran. at pp. 4-6, 19-22, 28). Mr. Carter's true interest of being relieved of all financial responsibility was noted by the Court in the findings contained in the Order of August 23, 2005, when Mr. Carter asked for such relief from the Court at the name change hearing. (Tran. at p. 37).

The Supreme Court of Virginia recently addressed the issue of a minor's name change and the best interest of the child standard. *Charles F. May v. Linda Grandy, et al,* Record No. 991770 (2000). In this case, the Court reiterated the factors that the trial court must use in applying the best interest test, as outlined in a previous case, *Flowers v. Cain,* 218 Va. 234, 237 S.E. 2d 111, 113 (1977)

> *"Generally, a [name] change will be ordered only if (1) the father has abandoned the natural ties ordinarily existing between parent and child, (2) the father has engaged in misconduct sufficient to embarrass the child in the continued use of the father's name, (3) the child otherwise will suffer substantial detriment by continuing to bear the father's name, or (4) the child is of sufficient age and discretion to make an intelligent choice and he desires that his name be changed. But, 'a change of name will not be authorized against the father's objection...merely to save the mother and child minor inconvenience or embarrassment."*

In the *May* case, the lower court granted the biological mother's petition to change the surname of her biological child based upon the child's best interest. On appeal the child's biological father contended that the circuit court erred in changing the child's name because "...he had committed no wrong against the child" and that the court erred "in granting the name change on the basis of inconvenience or that the child might be embarrassed to have a different last name than the mother." *Id.* The Supreme Court of

Virginia rejected his argument and affirmed the name change on the basis that the child's mother had demonstrated with satisfactory evidence that the requested name change was in the child's best interest.

The facts of the *May* case mirror that of the case at bar. Even though Charles May had not technically abandoned his child, the circuit court placed great weight upon the fact that the father did not call or visit the child, and it had been two and one-half (2½) years since his last visit. The only excuse offered by the father for his inattentiveness was that "he had a difficult job schedule and was traveling." *Id. May* also agreed that his daughter's mother had not impeded his visits and had even encouraged them.

The record reflects that Kenneth Carter had not seen or talked to his child for thirteen and one-half (13½) years. Moreover, although he initially blamed Christina Karawan for obstructing his visits, later in the hearing he abandoned that excuse, stating that he did not want to interfere in the child's life. (Tran. at pp. 14-15). While Kenneth Carter met minimal parental responsibilities by his payment of court-ordered child support, he also failed in many other respects, a fact which was recognized by the Court. The Court, affirming the lengthy and strong relationship between Blake Carter and his stepfather and noting the lack of any bond between the child and his natural father, found it was in the child's best interest to grant the name change.

In 2005, the West Virginia Supreme Court of Appeals allowed a name change in an adoption, over the objections of the children's paternal grandparents. *In Re: The Adoption of Jon L.*, 625 S.E. 2d 251; 2005 W.Va. Lexis 174 (2005). In this case, the Court referenced the West Virginia name change statute and denotes the seminal West Virginia cases on this issue. *West Virginia Code* §48-25-101 (2001) provides that...name

change statutes afford discretion in the circuit court to enter an order granting or refusing the petition for change of name. Under that statute, "...the court or judge thereof in vacation *may* order a change of name as applied for" (emphasis added).

In the present case, Mr. Carter fulfilled only one of his parental responsibilities, the payment of court-ordered child support commencing only after the final divorce hearing in October 5, 2001, twelve (12) months after the child's birth. The claim that Mr. Carter "desires" to have a future relationship with his son after almost fourteen (14) years has no credibility, given his lengthy absence from his life in all respects. In marked contrast, Appellee's husband had served as the child's father for fourteen years. The fact that Mr. Carter "loves" his son has no bearing on this case. (Appellant's Brief at p. 13).

In the *Harris* case, this Court noted that, absent extreme circumstances, "...in no event shall proof of abandonment for name change purposed be less than required to divest a parent's rights under the adoption statute." 160 W.Va. at 429, 236 S.E. 2d at 430.

Under that standard, the decision at issue should be affirmed by this Court. Kenneth Carter made no effort to see or contact his child for almost thirteen (13) years, with no viable excuse for his negligence. Such neglect, coupled with Mr. Carter's total disregard for the Court Order requiring disclosure of earnings, payment of uninsured medical expenses and insurance coverage for the child, supports the trial court's decision.

Kenneth Carter's argument that he has not abandoned his child is without merit, especially in light of his claim that "such an omission is not affirmative conduct." Appellant brief at 13. Mr. Carter abandoned all parental duties ***except*** the court-ordered payment of child support and his conduct was not exemplary.

The Appellant's claim that the court abused its discretion is without merit. Mr. Carter has not exercised his parental rights for over thirteen (13) years and has only provided minimal child support for his son, ignoring other important tenets of the divorce decree. Under the *Harris* Court analysis, his claim is flawed. Additionally, the trial court properly recognized that the name change of Blake Carter was in the child's best interests, as the child did not remember his last contact with his father; the young man had formed no bond with him, and per Mr. Carter's own admission the child's father had not requested visitation with him for many years. (Tran. at pp. 27-33). The trial court's conclusion can be supported under both statutory and West Virginia case law.

In reviewing the trial court's determination of a manner within its discretion, the appellate court cannot simply substantiate its own judgment for that of the trial court. The test is whether the trial court's decision was arbitrary or unreasonable. Under West Virginia law, the Court can properly affirm the lower court's ruling.

Read in its entirety, the *Harris* case provides that the Court must do a balancing test of the best interest of the child versus parental rights of the father. Paying a mere pittance of child support because one is subject to a court order does not make a man a father. The holding in *Harris* cannot extend to punishing a child who yearns to carry the name of his true father, his stepfather Henry John Karawan.

CONCLUSION

Wherefore, based upon the foregoing, Christina M. Karawan requests that this Court DENY Kenneth Carter's Petition for Appeal entered on March 29, 2006; award Christina M. Karawan's attorney's fees and expenses in defending this frivolous action;

and grant any further relief the Court finds mete and just.

Respectfully Submitted,

CHRISTINA M. KARAWAN
By counsel

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Appellee.

VERIFICATION

STATE OF West Virginia,
COUNTY OF KANAWHA to-wit:

I, Christina M. Karawan, the Appellee, after being duly sworn, say that the facts and allegations contained in the previously filed **Christina M. Karawan's Response to Kenneth Saunders Carter's Petition for Appeal** documents are true to the best of my knowledge and belief and that I have knowledge of the facts contained therein.

Christina M. Karawan
CHRISTINA M. KARAWAN

Taken, sworn to and subscribed before me, a Notary Public, on this the 16th day of June, 2006.

Rebekah H. Nida
Notary Public

My Commission Expires: 7/29/15

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
REBEKAH H. NIDA
191 MONTEREY DR.
ST. ALBANS, WV 25177
My commission expires July 29, 2015

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CERTIFICATE OF SERVICE

I, Julia B. Shalhoup, counsel for Christina M. Karawan, do hereby certify that service of the foregoing **Christina M. Karawan's Response to Kenneth Saunders Carter's Petition for Appeal** in the above styled case have been made upon the following:

John A. Porter
UNDERWOOD LAW OFFICES, INC.
910 Fourth Avenue, Suite 1111
Huntington, WV 25701

this the 16th day of June 2006, via United States mail, in a sealed envelope, postage prepaid.

Julia B. Shalhoup

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